



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

September 15, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Vista West Subdivision
c/o Mr. Duane Flishner, President
P.O. Box 1346
Sundance, WY 82729

Re: Administrative Order
Docket No. **SDWA-08-2006-0058**
PWS ID #WY5600246

Dear Mr. Flishner:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f *et seq.*, and its implementing regulations. Among other things, the Administrative Order finds that the Vista West Subdivision is a supplier of water as defined by the SDWA and has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.132(c), 141.23(d), 141.86(d), 141.153(f)(1), 141.21(g)(1), 141.21(g)(2), and 141.31(b) for exceeding the maximum contaminant level (MCL) for total coliform bacteria; failure to monitor monthly for total coliform bacteria; failure to monitor for residual disinfectant; failure to monitor for nitrate; insufficient monitoring for lead and copper; incomplete Consumer Confidence Report; failure to report total coliform MCL violations to EPA; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

If the Vista West Subdivision complies with the terms of the Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Small governments



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are also included under SBREFA, and the enclosed fact sheet discusses resources which may also be available to small governments. Also, there is a compliance assistance center for small governments, the Local Government Environmental Assistance Network (LGEAN). LGEAN can be accessed at www.lgean.com or by calling (877) 865-4326. SBREFA does not eliminate your responsibility to comply with the SDWA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, including the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Marcu at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure
Order
SBREFA

cc: (via email)
Wyoming DEQ
Wyoming DOH



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500

DENVER, COLORADO 80202-2466

September 15, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Crook County Commissioners
c/o Harold Burch Jr., Chair
309 Cleveland
P.O. Box 37
Sundance, WY 82729

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Vista West Subdivision
PWS ID# WY5600246

Dear County Commissioners:

Under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) administers a program for promoting the safety of public water supplies. In Wyoming, the EPA enforces this program directly, because Wyoming does not have primary authority for doing so. When EPA issues an administrative compliance order to a public water supply system in a state that does not have primary enforcement authority under the SDWA, EPA is required to notify an appropriate locally elected official. Accordingly, the purpose of this letter is to notify you that EPA is issuing an administrative compliance order to a public water supply system in your county.

An Administrative Order is being issued under Section 1414 of the SDWA to the Vista West Subdivision Public Water System, Sundance, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.132(c), 141.23(d), 141.86(d), 141.153(f)(1), 141.21(g)(1), 141.21(g)(2), and 141.31(b) for exceeding the maximum contaminant level (MCL) for total coliform bacteria; failure to monitor for total coliform bacteria; failure to monitor for residual disinfectant; failure to monitor for nitrate; insufficient monitoring for lead and copper; incomplete Consumer Confidence Report; failure to report total coliform MCL violations to EPA; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

| | | |
|-----------------------------------|---|-------------------------------------|
| IN THE MATTER OF |) | |
| |) | |
| Vista West Subdivision |) | |
| Sundance, Wyoming |) | |
| PWS ID# WY5600246 |) | |
| |) | |
| Respondent |) | |
| |) | ADMINISTRATIVE ORDER |
| Proceedings under Section 1414(g) |) | |
| of the Safe Drinking Water Act, |) | |
| 42 U.S.C. § 300g-3(g)) |) | Docket No. SDWA-08-2006-0058 |
| _____ |) | |

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Vista West Subdivision ("Respondent") is an unincorporated non-profit association and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Vista West Subdivision Public Water System (the "System"), located in Crook County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a

"supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.

5. According to a September 19, 2000 sanitary survey and a November 16, 2005 sanitary survey conducted by agents for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of two wells located on U.S. Forest Service land approximately 1 ½ miles from the community distribution system. Water is supplied year-round to residents of the subdivision, and during the summer season, water is supplied to a U.S. Forest Service campground, Reuter Campground. The System provides water to approximately 260 persons year-round through a total of 53 service connections.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per month to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system during April 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

II.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of community public water systems to monitor the water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during February and August 2004, in violation of 40 C.F.R. § 141.21(a).

III.

1. 40 C.F.R. § 141.132(c) requires community and non-transient, non-community water systems that use chlorine or chloramines to measure the residual disinfectant level in the distribution system at the same point and at the same time as total coliforms are sampled.
2. Respondent failed to monitor the water for maximum residual disinfectant in August 2004, in violation of 40 C.F.R. § 141.132(c).

IV.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL) as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2005, in violation of 40 C.F.R. § 141.23(d).

V.

1. 40 C.F.R. § 141.86(d) requires community and non-transient, non-community water systems on a reduced monitoring schedule to conduct lead and copper tap water sampling by collecting 5 one-liter samples during the months of June, July,

August, or September during each 3-year monitoring period for lead and copper after performing annual monitoring for three years.

2. Respondent sufficiently sampled for lead and copper in 2004, however, Respondent only collected one out of the five required samples for lead and copper during the 2003 compliance period, in violation of 40 C.F.R. § 141.86(d).

VI.

1. The regulations at 40 C.F.R. § 141.152(b) require a community water system to prepare and deliver an annual Consumer Confidence Report (CCR) to its customers by July 1, containing data collected during the previous calendar year.
2. 40 C.F.R. § 141.153(f)(1) requires the CCR to clearly note any monitoring and reporting violations of the NPDWRs and include the potential adverse health effects and actions taken by the system to address the violations.
3. Respondent failed to adequately identify and include the monitoring violations in its 2003 CCR detailed in Sections I and V of this Order, failed to adequately identify and include the monitoring violations in its 2004 CCR detailed in Sections II and III of this Order, and failed to adequately identify and include the monitoring violation in its 2005 CCR detailed in Section IV of this Order in violation of 40 C.F.R. §§ 141.152(b) and 141.153(f)(1).

VII.

1. 40 C.F.R. § 141.21(g)(1) requires public water systems that have exceeded the MCL for total coliform in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in

Section I, in violation of 40 C.F.R. § 141.21(g)(1).

VIII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform bacteria monitoring requirement to EPA within 10 business days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(2).

IX.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections III through VIII, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this order, Respondent shall comply with monitoring requirements for disinfection residuals as stated in 40 C.F.R. § 141.132(c). Respondent shall monitor maximum residual disinfectant (i.e., chlorine residual)

at the same time and place as total coliform to determine compliance with the maximum residual disinfectant level as stated in 40 C.F.R. § 141.65(a).

3. Within 30 days of the date of this Order, and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
4. Between June 1 and September 30, 2007, and according to the regulations thereafter, Respondent shall monitor the water for lead and copper as required by 40 C.F.R. § 141.86. Respondent shall report results and other information to EPA within the first 10 days following the end of each applicable monitoring period, as required by 40 C.F.R. § 141.90(a).
5. Within 30 days from the date of this Order, Respondent shall revise the 2003, 2004, and 2005 CCRs summarizing drinking water information from January through December 2003, 2004, and 2005, and deliver the reports to the System's customers, in accordance with 40 C.F.R. §§ 141.152-155. The 2003 CCR shall identify the April 2003 total coliform MCL, and the 2003 lead and copper monitoring violation. The 2004 CCR shall identify the February and August 2004 monthly total coliform monitoring violations, and the August 2004 maximum residual disinfectant monitoring violation. The 2005 CCR shall identify the 2005 annual nitrate monitoring violation. The CCRs shall also describe the potential adverse health effects and actions taken by the system to address the violations, in accordance with 40 C.F.R. § 141.153(f)(1). Respondent shall provide EPA copies of the CCRs along with certifications of the date and method of distribution of the CCRs to the System's customers no later than 10 days after distribution.

Respondent shall comply with 40 C.F.R. §§ 141.152-155 by preparing and delivering a complete and accurate CCR for each year thereafter by July 1 annually, and provide certification each year thereafter by October 1 annually.

6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.
7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
8. Except where a different reporting period is specified above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
9. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-DW)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized

under the Act.

2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500, under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 15TH day of September, 2006.

David J. Janik
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON SEPTEMBER 15, 2006.**